

November 28, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 22-95

The purpose of this All County Letter is to engage, support, and assist child welfare services agencies with documentation requirements for reporting Indian Child Welfare Act information in the statewide child welfare information system. This letter also includes specific instructions for entering this information into the current Child Welfare Services/Case Management System. Adherence to the instructions in this All County Letter will help ensure that Indian Child Welfare Act information is documented correctly and the default “not asked” is accurately updated to reflect the child/youth’s Indian Child Welfare Act information and will improve data quality.



KIM JOHNSON
DIRECTOR

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DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

November 28, 2022

ALL COUNTY LETTER NO. 22-95

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY ER PROGRAM MANAGERS

SUBJECT: **DOCUMENTATION OF INDIAN CHILD WELFARE ACT
INFORMATION**

REFERENCE: [WELFARE AND INSTITUTIONS CODE SECTIONS 224.2, 306,
AND 307;](#)
[ASSEMBLY BILL 3176 \(CHAPTER 833, STATUTES OF 2018\)](#)

The purpose of this All County Letter (ACL) is to engage, support, and assist child welfare services (CWS) agencies with documentation requirements for reporting Indian Child Welfare Act (ICWA) data in the statewide child welfare information system. This letter also includes specific instructions for entering this information into the current Child Welfare Services/Case Management System (CWS/CMS). Adherence to the instructions in this ACL will help ensure that ICWA data is documented correctly and the default “not asked” is accurately updated to reflect the child/youth’s ICWA information and will improve data quality.

BACKGROUND

The ICWA was enacted in 1978 to prevent the breakup of Indian families and to protect the best interests of Indian children, their families, and Tribes. However, the implementation and interpretation of ICWA has been inconsistent across states; creating significant gaps in protection and increasing the number of Indian children in care. In 2018, [Assembly Bill \(AB\) 3176](#) (Chapter 833, Statutes of 2018) amended several sections of the Welfare and Institutions Code (WIC) to conform with the Bureau of Indian Affairs ICWA regulations, which integrated a more robust inquiry requirement of the Indian child’s status.

County CWS agencies have a responsibility to understand and meet ICWA standards in order to ensure the safety of California's Indian children and help Indian children remain safely in, or return to, their homes whenever possible. The first step for ensuring ICWA compliance is to actively inquire about a child's political status as an Indian child. In [WIC § 224.2\(a\)](#), it states that "the court, child welfare department, and the juvenile probation department have an *affirmative and continuing* duty to inquire whether a child is or may be an Indian child."

In order to accurately reflect that this requirement is being met, ICWA eligibility must be documented and updated in a timely fashion in the statewide child welfare information system, starting at first contact between the agency and the family, throughout the investigation and until ICWA eligibility is fully determined by the court in the case. Currently, in the CWS/CMS, the "ICWA Eligible" field is required to be updated with the most currently available information for all clients.

At the very first contact between the CWS agency and the family regarding a child, including when a party reports child abuse or neglect to a child welfare hotline or when the child is placed into the temporary custody of the agency under [WIC § 306](#) or [WIC § 307](#), the intake and investigating social worker must inquire regarding whether there is any information indicating that the child is or may be an Indian child and where the child, parents, or Indian custodian are domiciled ([WIC §§ 224.2 \(a\) & \(b\)](#)). This information may lead to further inquiry to determine the child's Indian status or may lead to the application of the ICWA substantive and procedural elements immediately depending on whether the information gathered provides a reason to know that the child is or may be an Indian child. Inquiry should be thoroughly documented in the statewide child welfare information system, in the physical case file, and on Judicial Council's form [ICWA-010\(A\)](#). In the CWS/CMS, inquiry must be documented in the corresponding tabs (See Attachment).

DOCUMENTATION OF ICWA INFORMATION

For all child welfare referrals/cases inquiry must occur at first contact, and the duty to inquire for cases where there is reason to believe a child is or may be an Indian child continues until the court makes a finding that adequate further inquiry and due diligence as required in this section have been conducted and there is no reason to know whether the child is an Indian child ([WIC § 224.2 \(1\)\(2\)](#)). The information related to ICWA shall be documented in the statewide child welfare information system and physical case file for each referral and updated throughout the life of the case.

DOCUMENTATION OF ICWA ELIGIBILITY IN THE CWS/CMS

The *ICWA Eligible* field in the *Other Client Information* grid on the ID Page of the child/youth's *Client Notebook* within the CWS/CMS, includes the options:

- Yes
 - Marked when the court determines that ICWA applies.
- No
 - Marked when it is confirmed by the court that ICWA does not apply.
- Not Asked
 - The 'ICWA Eligible' field on the ID page of the child/youth's Client Notebook **defaults to "Not Asked."** If the social worker does not update this field, it will remain as "Not Asked" and inquiry efforts will not be accurately reflected in CWS/CMS. It is imperative to update this field and any other ICWA information as inquiry efforts occur.
- Pending
 - Marked when the court has not made a determination that ICWA applies.

It is important to make sure to mark the appropriate box for each child/youth so that accurate data is captured.

If *Not Asked* is marked in the ICWA Eligible field of the child/youth's *Client Notebook*, the person responsible for entering referral data into the CWS/CMS (hereafter referred to as "Hotline screener") should offer an explanation in the *Screener Narrative* about why inquiry was not done with the reporting party.

If the Hotline screener asks about ICWA and the reporting party does not know if the child is or may be an Indian child, the Hotline screener should mark *Pending* and indicate in the *Screener Narrative* that the reporting party did not know.

If the Hotline screener marks *Not Asked* or *Pending*, the investigating social worker has a duty to continue to inquire until the court determines whether there is a reason to know that ICWA applies and to update the ICWA Eligible field on the ID page of the child/youth's Client Notebook as soon as ICWA eligibility is determined. If *Not Asked* or *Pending* is marked in the ICWA Eligible field of the child/youth's *Client Notebook* at the conclusion of the investigation, the investigating social worker will describe in the *Investigation Narrative* why the inquiry was not performed or completed. The court investigator or case carrying worker will also update the ICWA Eligible field if they find more information throughout the court investigation or throughout the life of the case. Please refer to the Attachment which outlines how to document ICWA information as well as Indian ancestry and tribal affiliation in the CWS/CMS.

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An ACL providing extensive guidance on inquiry, notice, and documentation of these elements is forthcoming.

For questions regarding the information contained in this letter, please contact the Family Centered Safety and Support Bureau at 916-651-6160 or at childprotection@dss.ca.gov.

Sincerely,

Original Document Signed By:

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division

CHILD WELFARE SERVICES/CASE MANAGEMENT SYSTEM DOCUMENTATION

Use these instructions to document a child/youth's Indian heritage as well as to document ICWA notification. Inquiry sample questions can be found on Page 62 of the Office of Tribal Affairs' [ICWA Desk Reference](#) publication.

1. Open the child/youth's Client Notebook
2. Navigate to the ID tab



3. Scroll to the "Other Client Information" Grid and select the appropriate radio button in the "ICWA Eligible" field.

NOTE: This is not currently a mandatory field, however, this is a critical data point for ICWA compliance tracking purposes and must be completed for all referrals.

A screenshot of the "Other Client Information" form. The "ICWA Eligible" section is highlighted with a red box. It contains four radio buttons: "Yes", "No", "Not Asked" (which is selected), and "Pending". To the right, the "Incapacitated Parent" section has three radio buttons: "Yes", "No", and "Unknown". At the bottom, there is a checkbox labeled "Child has Indian Ancestry".

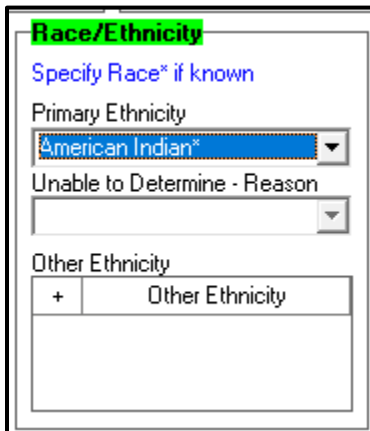
4. Click on the "+" in the upper left-hand corner to complete the "Indian Ancestry Notification" grid. This grid indicates when the county was notified that the child/youth has possible Indian Ancestry.

A screenshot of the "Other Client Information" form with the "Indian Ancestry Notification" grid expanded. The "ICWA Eligible" and "Incapacitated Parent" sections are on the left. The "Indian Ancestry Notification" section on the right contains a table with columns for "+", "County", and "Date". The first row has "1" in the "+" column. To the right of the table are two dropdown menus: "County" and "Date Informed".

+	County	Date
1		

ATTACHMENT

5. If the child/youth is identified as an Indian Child, update/verify the “Primary Ethnicity” or “Other Ethnicity” to reflect “American Indian”



The screenshot shows a form titled "Race/Ethnicity" with a green header. Below the title is the instruction "Specify Race* if known". The form contains two main sections: "Primary Ethnicity" and "Other Ethnicity". The "Primary Ethnicity" section has a dropdown menu with "American Indian*" selected. Below it is a field for "Unable to Determine - Reason" with a dropdown arrow. The "Other Ethnicity" section has a table with a "+" button and the text "Other Ethnicity".

Race/Ethnicity	
Specify Race* if known	
Primary Ethnicity	
American Indian*	
Unable to Determine - Reason	
Other Ethnicity	
+	Other Ethnicity

6. Navigate to the Related Clients tab



7. Confirm that the relationships between the child/youth and relatives have been established correctly
8. Complete steps 1-7 for each eligible or pending eligible child/youth
9. Open the **parent's** Client Notebook of the parent with Indian ancestry
10. Navigate to the ID tab



11. Update/Verify the “Primary Ethnicity” or “Other Ethnicity” to reflect American Indian

Race/Ethnicity

Specify Race* if known

Primary Ethnicity

Unable to Determine - Reason

Other Ethnicity

+	Other Ethnicity

12. Navigate to the I.C.W.A. tab and click on the “+” in the upper left-hand corner of the “Tribal Membership” grid. Then a dialogue box will pop up to record the following information:

- a. Tribe Location
- b. Tribal Affiliation
- c. Tribe

Summary | ID | Demog. | Address | Names | Related Clients | ID Num | Juv. Cr. # | Search Log | AFD/FC | Attorneys | Service Providers | **I.C.W.A.** | Contributing Factors | Spec. Prj. | Adoption Info

ICWA

Tribal Membership

+	Tribal Affiliation	Tribe	Status	Parent

Tribe Location:
 Tribal Affiliation:
 Tribe:
 Membership Status: Status Date: Enrollment Number:

Ancestor Information

+	Relative Type

Tribal Membership [X]

Tribe Location:
 Tribal Affiliation:
 Tribe:

Select All
Deselect All

OK
Apply
Cancel
Help

13. The information entered/selected in the “Tribal Membership” Dialogue box will populate the “Tribal Membership” Grid.

ATTACHMENT

ICWA

Tribal Membership

+	Tribal Affiliation	Tribe	Status	Parent
1				
2				

Tribe Location Tribal Affiliation Tribe

Membership Status Status Date Enrollment Number

14. Click on the “+” in the upper left-hand corner of the “Ancestor Information” grid, then you will be able to complete the grid (about the child’s grandparents, great-grandparents, etc.) with as much information as possible, including:

- Relative Type
- Name
- Date of Birth
- Place of Birth
- Date of Death
- Place of Death
- Other Names (If the “+” is selected in the upper left-hand corner of the “Other Names” grid, a dialogue box will open to enter the Name type, First name, and Last Name. This information will populate the “Other Names” grid.)

Ancestor Information

+	Relative Type	Name
1		
2		
3		

Relative Type

Name

Title First Middle Last Suffix

Date of Birth Place of Birth

Date of Death Place of Death

Other Names

+	Name Type	Other Name

Relative Tribal Membership

ATTACHMENT

Tribal Ancestor Other Names

Name Type: [Dropdown]

Prefix: [Text] First: [Text] Middle: [Text] Last: [Text] Suffix: [Text]

Buttons: OK, Apply, Cancel, Help

15. Select the “+” in the upper left-hand corner of the “Relative Tribal Membership” grid (the information entered now will also refer to the relative selected in the “Ancestor Information” grid. Note: if the previously selected person is the parent’s parent, it is the child’s grandparents), then you will be able to enter:

- a. Tribe Location
- b. Tribal Affiliation
- c. Tribe
- d. Enrollment Number (if available)

Relative Tribal Membership

Table: Tribal Affiliation, Tribe

Tribe Location: [Dropdown] Tribal Affiliation: [Dropdown] Tribe: [Dropdown] Enrollment Number: [Text]

Current Address
Street No. & Name: [Text]
City, State, Zip: [Text]

Former Address
Street No. & Name: [Text]
City, State, Zip: [Text]

Tribal Membership

Tribe Location: [Dropdown]
Tribal Affiliation: [Dropdown]
Tribe: [Text]

Buttons: Select All, Deselect All, OK, Apply, Cancel, Help

16. Repeat steps 9-15 for each parent who indicates they may have Indian Ancestry and for each relative of the parent who may have Indian Ancestry, as a child may have more than one tribal affiliation.

17. Return to the child/youth's Client Notebook and navigate to the I.C.W.A. Page



18. Information from the parent's Client Notebook, I.C.W.A. Page will populate to the child/youth's Client Notebook, I.C.W.A. Page. Complete the Tribal Membership information for each Tribe listed.

Summary	ID	Demog.	Address	Names	Related Clients	ID Num	Juv Crt.#	Search Log	AFDC-FC	Attorneys	Service Providers	I.C.W.A.	Contr
ICWA													
Tribal Membership													
	Tribal Affiliation	Tribe	Child Status	Parent									
1													
Tribe Location		Tribal Affiliation		Tribe									
Continental U.S. Indian Tribes													
Child Membership Status		Status Date		Enrollment Number									
						Family Tree							
						Membership Status / Date							

19. Use the dropdown menu to select the Child Membership Status, Status Date, and Enrollment Number (if available) for each record in the tribal membership grid. If a Tribe is specified, all dropdown options are available.

NOTE: The 60-day rule no longer applies under the provisions set forth in AB 3176. When there is reason to know that the child is an Indian child, the court shall treat the child as an Indian child **unless and until** the court determines on the record that ICWA does not apply ([WIC § 224.2\(i\)](#)). Due to this, "No Response After 60 Days" should not be marked at any point of the referral and/or case.

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Tribe Location Continental U.S. Indian Tribes	Tribal Affiliation 	Tribe 	Family Tree
Child Membership Status Pending Verification	Status Date 	Enrollment Number 	Membership Status / Date
<div><None> Claims Membership Eligible Member No Response After 60 days Not Eligible Pending Verification</div>			
Name			

If no Tribe is specified, only some of the dropdown options are available.

Tribe Location No Tribe Specified	Tribal Affiliation No Tribe Specified	Tribe Bureau of Indian Affairs	Family Tree
Child Membership Status <None>	Status Date 	Enrollment Number 	Membership Status / Date
<div><None> Claims Membership Eligible Member No Response After 60 days Not Eligible Pending Verification</div>			
Name			

20. Repeat steps 17-19 for every eligible child/youth's Client Notebook

21. Be sure to go back to the child/youth's Client ID Page and update the child/youth's ICWA eligibility status when you receive more information about the child/youth's ICWA status.